

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5390 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?
- No. 1    Yes            Nos. 2 to 5        No

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STAR AUTO AGENCY

Versus

STATE OF GUJARAT

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Appearance:

MS SEJAL K MANDAVIA for Petitioner

MR. UMESH TRIVEDI, A.G. P. for Respondent No. 1

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CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 12/09/97

ORAL JUDGEMENT

Rule. The learned counsel for the respondents waives service of rule. Both the sides pray for immediate hearing of the matter.

The petitioner challenges the order dated 17.5.1997 at Annexure-`E' to the petition passed by the Deputy Director of Transports requiring the petitioner to obtain certificate of the Vehicle Valuation Laboratory,

Pune to show that the petitioner's three wheeler diesel vehicle conforms to noise level of less than 82 decibels. As per the certificate which was produced by the petitioner from the Automotive Research Association of India, Pune, a copy of which is at Annexure-F, the vehicle in question was having actually maximum noise level of 82.5 dB in the top gear. The respondent authority has insisted that the said noise level should be brought down to below 82dB.

The noise standards are prescribed in Rule 120(2) of the Central Motor Vehicles Rules, 1989 as per which for passenger or light commercial vehicles, including three wheeled vehicles fitted with diesel engine, the maximum permissible noise level prescribed is 85 dB. The motor vehicles are required to be constructed and maintained so as to conform to noise standards laid down under the said Rules. Since the vehicle of the petitioner admittedly was having maximum noise level of 82.5 dB as per the certificate of the Pune Institution produced by the petitioner, the authorities could not have insisted that the petitioner should obtain certificate of maximum noise level of below 82dB, because, the rule itself prescribes maximum noise level of 85 dB. When the petitioner satisfied the requirements of the rules, it was not open to the authority to insist on a different standard. The impugned direction dated 17.5.1997 being contrary to Rule 120(2) is hereby set aside. It would however, be open for the authority to take action if the maximum permissible noise level of the petitioner's vehicle at any time crosses the limit prescribed by the Rules. Rule is made absolute with no order as to costs.

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